

66-67
10.03.2022
TN

CPAN 92 of 2020
In
WPA No.217 of 2020

Sk. Sarajul and others
Vs.
Ravi Grahikar and others

Mr. Asit Kumar Bhattacharya
.... for the applicants

Mr. Kalipada Chakraborty
.... for the alleged contemnor
nos.2, 3 and 4

Affidavit-of-service filed in court today be kept
on record.

Learned counsel for the alleged contemnors, at
the time of hearing, furnishes a printout of a scanned
copy, on instruction from his client, which is a copy of
a purported certificate issued by the Pradhan, Rishi
Bankim Chandra Gram Panchayat, Egra-I, Purba
Medinipur. The same be kept on record. The said
document indicates that the alleged contemnors have
not constructed on the disputed property, but on a
separate plot of land, which construction has already
been completed, adhering to a regular sanction plan.

As such, the order of this court was not violated in any manner.

Learned counsel appearing for the applicants in the contempt application categorically denies such contention and submits that the Panchayat Pradhan, in such case, ought to be directed to ascertain on physical inspection the actual state of affairs on the land-in-question.

The difficulty in the matter is that this court had directed implementation of an order of the Executive Magistrate. Initially, there were contradictory orders of the Magistrate– one mandatory and the other prohibitory in nature – which were sought to be resolved by the order of this court, which is under contempt, by observing that the prohibitory order was to be followed.

However, now a specific contention has been advanced on behalf of the alleged contemnors disputing any construction having been raised on the disputed property. It is the further contention of the alleged contemnors that the construction has been completed, but on a different plot of land which is owned by the petitioners/applicants.

Such dispute being clearly civil in nature and the construction having been admittedly completed,

no useful purpose can be served, at the present juncture, in directing a local inspection at the locale.

It is beyond the purview of this court, sitting in contempt jurisdiction in connection with a writ matter, to embark upon a full-fledged factual enquiry in that regard, which might necessitate trial on evidence.

Apart from the respective contentions of the parties, there is nothing concrete before the court to establish beyond reasonable doubt that a contumacious act or omission has been perpetrated.

As such, CPAN 92 of 2020 is disposed of in the light of the above observations. Any Rule, if issued, stands discharged.

However, the applicants are granted liberty to approach the competent civil court with the dispute as urged in the writ petition and the contempt application, for a resolution of the issue. If such a suit is filed against the alleged contemnors by the applicants, the civil court will decide the same in accordance with law and on the materials before it, without being influenced in any manner by any of the observations made by this court.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)